

David Boyajian, OSB #112582
Email dboyajian@schwabe.com
C. Kent Roberts, OSB #801010
Email ckroberts@schwabe.com
Schwabe, Williamson & Wyatt, P.C.
Pacwest Center
1211 SW 5th Ave., Suite 1900
Portland, OR 97204
Telephone 503-222-9981
Fax 503-796-2900

Of Attorneys for Plaintiff Port of Kalama

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

**Port of Kalama, a Washington public port,
and John Does 1 through 100,**

Plaintiffs,

vs.

**M/V SM MUMBAI, her engines, tackle,
apparel, furniture, equipment and all other
necessaries appertaining and belonging
thereto, *in rem*; KLC SM CO LTD, Korea
Tonnage No. 19 Shipping Co., dba SM Line
Corporation and SM Line Corporation, in
personam,**

Defendant.

No. 3:20-cv-00621

IN ADMIRALTY

COMPLAINT IN REM AND
IN PERSONAM
(Maritime tort)

Plaintiff, Port of Kalama, by its attorneys, Schwabe, Williamson & Wyatt, for its
complaint against Defendants M/V SM MUMBAI, *in rem*; and Korea Tonnage #19 Shipping
Co., dba SM Line Corporation and SM Line Corporation, *in personam*, in a cause of action for a
maritime lien arising from maritime tort, on information and belief, alleges as follows:

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JURISDICTION

1.

This is an case of admiralty and maritime jurisdiction, 28 U.S.C. § 1333, and is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and Rules C, and E of the Supplemental Rules for Certain Admiralty And Maritime Claims.

PARTIES

2.

Plaintiff Port of Kalama is a Washington public port, organized and existing under the laws of a Washington at Kalama, Washington. The Port of Kalama owns and operates a vessel marina on the Columbia River at Kalama, Washington (The "Port Marina").

3.

Plaintiffs John Does 1 through 100 are the owners of recreational and commercial vessels moored and located within the Port Marina. Port of Kalama includes John Does 1 through 100 as named Plaintiffs so that individual boat owners may join this action if the Defendants do not independently accept and pay their damage claims.

4.

Defendant M/V SM MUMBAI, IMO #9401051, is an ocean going vessel operating on the navigable waters of the United States and is presently or will be during the pendency of this action within this District and the jurisdiction of this Honorable Court.

5.

Defendants KLC SM CO LTD and Korea Tonnage No. 19 Shipping Co., dba SM Line Corporation are South Korean business entities and are the owners, disponent owners, or operators of the SM MUMBAI. Defendants conduct significant business in the State and District, providing regular and scheduled container vessel service to the Port of Portland's Terminal 6.

6.

Defendant SM Line Corporation is a South Korean business entity and is the disponent owner, operator, manager or charterer of the SM MUMBAI.

UNDERLYING EVENTS

7.

The Port Marina is protected by a jetty stone breakwater and is constructed to resist ordinary and normal swell and wake action occurring from passing commercial vessels. At the time of the events described in this Complaint, numerous recreational and commercial vessels were properly moored within the Port Marina, including those owned by John Does 1-100.

8.

On or about April 13, 2020, the SM MUMBAI transited upstream on the Columbia River on route to the Port of Portland's Terminal 6. At approximately 4:03 AM, on April 13, 2020, the SM MUMBAI passed the Port Marina at an excessively high rate of speed, causing an excessively large wake. The excessive swell and suction action from the SM MUMBAI entered the Port Marina through the marina entrance as severe water displacement (suction), followed by a large wave (swell) that rolled from the north end to the south end of the marina, through the marina structures and moored vessels. This action repeated as the wave bounced off the southern end of the marina inlet and rolled back through the marina structures and moored vessels.

9.

The excessive and extraordinary swell and suction from the SM MUMBAI caused extensive damage to the docks, walkways, slips, roofing and pilings of the Port Marina. This damage includes, but is not limited to broken concrete floats, broken piling hoops, broken utility lines, displaced and broken pilings, broken and displaced walkway connections and ramps, broken roof supports, and buckled roofing. This damage is estimated to exceed \$3,000,000 in repair and replacement costs.

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10.

The excessive and extraordinary swell and suction from the SM Mumbai also caused extensive damage to the vessels located in the marina, including those of John Does 1 through 100, as the boats were violently tossed about in their moorings. Approximately 50 to 100 boats suffered hull damage due to wake caused slamming against Port Marina walkways, slip structures, dolphins and against other vessels. Of those boats, approximately two dozen boats were completely torn from their moorings, suffering grounding damage and risk of sinking. Damage to the boats within the Port Marina belonging to John Does 1 through 100 is estimated to total approximately \$2,000,000.

CAUSES OF ACTION

Negligence

11.

Paragraphs 1-10 of this Complaint are repeated and realleged as if the same are set forth here at length.

12.

The damage to the Port Marina and to the boats belonging to John Does 1 through 100, was caused by the negligence of the M/V SM MUMBAI, her Master, crew and pilots, and by the negligence of the *in personam* defendants, as follows:

- (a) operating the SM MUMBAI at an excessive rate of speed while passing by the Port Marina;
- (b) failing to pass the Port Marina carefully and prudently so as to avoid creating unusual vessel swell or suction;
- (c) failing to appreciate the reasonable effect of the SM MUMBAI's speed and motion through the Columbia River as it passed the Port Marina;
- (d) failing to take all reasonable precautions to avoid damaging shore structures and properly moored vessels;

(e) failing to operate the SM MUMBAI at an ordinary and customary speed for commercial vessels operating in the Columbia River in the vicinity of the Port Marina; and

(f) creating vessel swell and suction which the SM MUMBAI Master, crew and pilots, and the *in personam* defendants, knew or should have known would cause damage to properly constructed and maintained Port Marina structures, and to properly moored vessels within the Port Marina.

13.

The negligence of defendants has caused extensive damage to the Port Marina structures, with repair costs preliminarily estimated at \$3,000,000. In addition, the Port of Kalama anticipates losing moorage and related revenue at the Port Marina during repairs, in amounts to be determined but preliminarily estimated at \$500,000.

14.

The negligence of defendants has caused extensive damage to the vessels belonging to John Does 1 through 100, with repair costs that the Port of Kalama preliminarily estimates at \$2,000,000.

15.

By reason of the foregoing, the M/V SM MUMBAI, *in rem*, and the *in personam* defendants KLC SM CO LTD and Korea Tonnage No. 19 Shipping Co., dba SM Line Corporation and SM Line Corporation, and each of them, are liable to the Port of Kalama and to the vessel owning plaintiffs, John Does 1 through 100, in the damage amounts alleged or as may otherwise be proven at trial, together with interest, costs and attorneys fees. In addition, M/V SM MUMBAI, by reason of the foregoing, Port of Kalama and the John Does 1 through 100 have a maritime lien against the M/V SM MUMBAI in the damage amounts alleged, plus interest, costs and attorney's fees.

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Statutory Fault

16.

Paragraphs 1-15 of this Complaint are repeated and realleged as if the same are set forth here at length.

17.

The damage to the Port Marina and to the boats belonging to John Does 1 through 100, was further caused the M/V SM MUMBAI's statutory violation, in failing to maintain a safe speed as required by Inland Rule 6 of the Navigation Rules, codified at 33 C.F.R. §83.06.

WHEREFORE, Plaintiff Port of Kalama prays as follows:

1. That process in rem in due form of law according to the practice of this Honorable Court in admiralty and maritime cases be issued against the M/V SM MUMBAI, her engines, boilers, tackle, appurtenances, etc., pursuant to Rules C and E of the Supplemental Rules For Certain Admiralty and Maritime Claims and that any person claiming any right, title or interest in the aforesaid vessel be cited to appear and answer the matters aforesaid and that the said vessel be condemned and sold to satisfy the demands as aforesaid, with interest, costs, and attorney's fees;

2. That the Port of Kalama have judgment against the *in personam* defendants KLC SM CO LTD and Korea Tonnage No. 19 Shipping Co., dba SM Line Corporation and SM Line Corporation in the damage amounts to be proven at trial, preliminarily estimated to be \$3,500,000 for Port of Kalama.

3. That boat owners John Does 1 through 100 who join this action have judgment against the *in personam* defendants KLC SM CO LTD and Korea Tonnage No. 19 Shipping Co., dba SM Line Corporation and SM Line Corporation in the damage amounts to be proven at trial as to each damaged boat, preliminarily estimated to total \$2,000,000.

3. That Plaintiffs reserve the right to amend to add additional claims, defendants, or damages.

4. That Plaintiffs be granted such other, further and different relief as this Honorable Court may deem to be just, proper and equitable in the premises.

Dated this 16th day of April, 2020.

SCHWABE, WILLIAMSON & WYATT, P.C.

By: /s/ David R. Boyajian
David R. Boyajian, OSB #112582
Email: dboyajian@schwabe.com
C. Kent Roberts, OSB #801010
Email: ckroberts@schwabe.com
Telephone: 503.222.9981
Facsimile: 503.796.2900
Of Attorneys for Plaintiff Port of Kalama